

Office of the Attorney General
State of Tennessee

***1 Opinion No. 94-024**
March 9, 1994

1993 Amendment to T.C.A. § 7-86-105(b)(1); Manner of Appointing E911
Communications District Board of Directors in a County Meeting the Requirements of
T.C.A. § 7-86-105(b)(3).

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QUESTION

Does the 1993 amendment to T.C.A. § 7-86-105(b)(1) require members of an
emergency communications district board of directors in a county meeting the
requirements of T.C.A. § 7-86-105(b)(3) to be appointed by the county executive in
accordance with T.C.A. § 5-6-106(c) or by the county legislative body as would be
required under T.C.A. § 7-86-105(b)(3) taken in isolation.

OPINION

The 1993 amendment to T.C.A. § 7-86-105(b)(1), which provides that whenever that
section requires a county legislative body to appoint directors for the board of
an emergency communications district, the method of appointment shall be by the
confirmation process as established pursuant to T.C.A. § 5-6-106(c), applies to a
county meeting the requirements of § 7-86-105(b)(3). Therefore, the county
executive of a county meeting the requirements of T.C.A. § 7-86-105(b)(3) would
appoint the directors which are to be appointed by the legislative body of the
county pursuant to T.C.A. § 7-86-105(b)(3), and the appointments would be subject
to confirmation by the county legislative body.

ANALYSIS

T.C.A. § 7-86-104 permits the legislative body of any municipality or county by
ordinance or resolution, respectively, to create an emergency communications
district within all or part of the boundaries of such municipality or county under
the terms of a referendum stated therein. T.C.A. § 7-86-105(a) provides that upon
approval by a majority of the eligible voters within the area of the proposed
district voting at such referendum, the legislative body may create an emergency
communications district. T.C.A. § 7-86-105(b)(1) states that:

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The legislative body may appoint a board of directors composed of not less than seven (7) nor more than nine (9) members to govern the affairs of the district.

Therefore, the "legislative body" contemplated by that section may be either the legislative body of a county, or of a municipality. T.C.A. § 7-86-105(b)(1) continues by permitting certain small municipalities meeting certain criteria to have the legislative body of such municipality be the board of directors.

If the legislative body of a county, rather than a municipality, is the body creating the emergency communications district, the final sentence of T.C.A. § 7-86-105(b)(1) directs how that county legislative body is to go about appointing those members of the board of directors it is directed to appoint anywhere within T.C.A. § 7-86-105. The 1993 amendment to T.C.A. § 7-86-105(b)(1) added one sentence with relation to the appointment of a board of directors for an emergency communications district by a county legislative body, stating: "Whenever this section requires the county legislative body to appoint directors, the method of appointment shall be by the confirmation process as established pursuant to § 5-6-106(c)." The words "this section," as used in the foregoing, refer to the entire section, including all of T.C.A. § 7-86-105, and all instances within that section that a county legislative body is directed to appoint a board of directors. T.C.A. § 5-6-106(c) reads as follows:

*2 Except as otherwise provided by general law, or special or private act, the county executive shall appoint members of county boards and commissions and county department heads. Such appointees shall be subject to confirmation by the county legislative body, and in so doing, the legislative body may express its views fully and freely and shall vote for or against confirmation. The legislative body shall not seek or interview such prospective employees prior to their appointment by the county executive. Such appointment and confirmation is not applicable to employees appointed by other elected county officials.

Taken together, these statutory provisions provide that where T.C.A. § 7-86-105 requires the county legislative body to appoint members of the emergency communications district board of directors, the county executive shall name the appointees to the emergency communications district board of directors in the first instance. Those appointees shall be subject to confirmation in the same method as that applicable to members of county boards and commissions and county department heads through T.C.A. § 5-6-106(c), whereby the county legislative body shall vote for or against confirmation of the appointees named by the county executive.

T.C.A. § 7-86-105(b)(3) is one such portion of T.C.A. § 7-86-105 which requires a county legislative body to appoint certain members of the board of directors of the emergency communications district. T.C.A. § 7-86-105(b)(3) states in pertinent part:

(3) In emergency communication districts established by counties with a population greater than three hundred thousand (300,000) and less than seven hundred fifty thousand (750,000) according to the 1980 federal census or any subsequent federal census, except in counties with a metropolitan form of government, the mayor and the chief of police and the fire chief of the municipality, or their representatives, with the largest population in the district, the county sheriff in the district, and the county executive in the district, shall be members of the board of directors of the district.... In

districts covered by this subsection, the legislative body may appoint up to eleven (11) members to govern the affairs of the district to allow for the appointment of two (2) additional directors, one (1) of whom shall be a woman and one (1) of whom shall be a representative of the nongovernmental emergency agencies servicing such district....

(Emphasis added). T.C.A. § 7-86-105(b)(3) directs that in counties to which it applies (Knox County) the county legislative body may appoint those members of the emergency communications district board of directors which are not statutorily required to be on the board by that paragraph. Due to the last sentence of T.C.A. § 7-86-105(b)(1), any such appointments shall be made according to the procedure set forth in T.C.A. § 5-6-106(c), whereby the county executive makes the appointments and they are subject to confirmation by the county legislative body.

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